

Lewis County Planning Commission **Public Hearing**

Lewis County Courthouse
Commissioners' Hearing Room – 2nd Floor
351 NW North St – Chehalis, WA

April 23, 2013 - Meeting Notes

Planning Commissioners Present: Mike Mahoney, Russ Prior, Bob Guenther, Jim Lowery, Arny Davis, Richard Tausch, Clint Brown

Staff Present: Glenn Carter, Lee Napier, Stan May, Pat Anderson

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes from April 9, 2013
- Flood Damage Prevention Letter
- Flood Damage Prevention Chapter 15.35
- Handout - Flood Insurance Reform Act of 2012 – FEMA
- Handout - Changes Coming to National Flood Insurance Program – FEMA

1. Call to Order

Chairman Davis called the meeting to order at 6:00 p.m. The Planning Commissioners introduced themselves.

2. Approval of Agenda

The agenda was approved as presented.

3. Approval of Meeting Notes

The Chair entertained a motion to approve the meeting notes from April 9, 2013. Commissioner Brown made the motion to approve; Commissioner Tausch seconded. The motion carried.

4. Old Business

Chairman Davis stated more outreach would be done on the Large Lot Subdivision chapter but asked if there were specific questions of staff, adding that another workshop will be held late in May.

Commissioner Guenther stated he would appreciate the public's input on the chapter.

Commissioner Lowery asked why the revisions to the chapter came before the Planning Commission. Mr. May stated that on occasion a survey is recorded that doesn't match up. The comments that were received helped staff create a better update.

Chairman Davis stated there were conflicts on the zoning and that started staff down the path to clean it up. Mr. May stated it was to cover the zoning that went out to 80 acre, whereas in reality FRL is the only

zone that goes out to 80 acres. The proposed changes are basically the same as it was at a 20-acre exemption except in FRL. The conservation lots were added because of suggestions from others.

Commissioner Brown stated a letter was submitted by Mr. Bird at the April 9 meeting in which he suggested an alternative plan to the current land division regulations. Mr. Brown read that part of the letter which stated a jurisdiction used a permit review fee for land divisions of 20 acres and greater land divisions. Mr. Brown's understanding of the proposed change was to review to make sure that it is appropriate. He asked why the County could not require a permit fee for a review.

Mr. May stated it was to support the change and how it was done by showing it in a regulation and that someone wasn't trying to record something smaller than 80 acres.

Mr. Carter stated from a legal perspective there are concerns that lots are not created that are not consistent with zoning. The zoning must match what the requirements are for the lot size. That could be accomplished by a review such as Commissioner Brown suggested. In planning there are other considerations that might play into this. Mr. Carter cannot speak to the types of conditions for development. A simple segregation can be done in such a way that the concern is not for whether it is buildable or not. From Mr. Carter's perspective, the County was making sure it was not creating lots that were substandard and did not meet zoning and would never meet zoning unless further changes were made in the future. Mr. Carter stated he is not a planner and did not think he could speak to the issue.

Commissioner Brown stated simpler is easier and if just a review is required would that not meet the needs of the County?

Mr. Carter stated one of the issues raised was about a conservation lot. A conservation lot is a provision that is not in the code. To the extent that the timber companies have suggested that they need to have the means to create a conservation lot and the procedures to do that, that is a subdivision and there needs to be a regulation for that. From a planning perspective, where there is an ARL there are subdivisions at 20-acre levels. This would provide for subdivision in FRL where the zoning is 1 in 80. There is no provision for that in the forest resource land. This would therefore enable someone to subdivide in FRL but it would be a large lot (80 acres).

Mr. May stated it says that the exemption is still 20 acres as it has always been, except in FRL, which is 80 acres. Mr. May stated the conservation lot is additional and addresses a need that was expressed and the feedback has been positive.

Mr. Carter verified with Mr. May that with respect to the forest resource lands all it is doing is raising the exemption to the size that it matches the zoning. Mr. May stated that was correct and that is the extent of the change of the exemption. Mr. Carter stated with respect to the conservation lot it adds that procedure. Mr. May stated it allows that and it has to be 80 acres in FRL, but if there is a conservation lot and the conditions can be met, then it is okay.

Commissioner Prior spoke to the staff report that indicated that the Mason County code was used as a model. Commissioner Prior thought the Mason County code was easier to understand. He asked staff

to copy it more directly. He questioned section 9 in the code that reads: "...if the land is not capable of description as a fraction of a section of land or one eighth of a section of land..."

Mr. May stated that was before it was strictly acreage. By adding that language describing tracts that are 1/32 of a section or larger allows for describing a survey using the aliquot method rather than an acreage method. Some sections are not exactly 640 acres.

Commissioner Prior asked why it could not read "an aliquot of land." If it can't be described as a fraction of a section then it has to be a section.

Commissioner Prior stated forest land of commercial significance has been excluded. He asked about forest land of local importance. Mr. May stated local importance is a 20-acre minimum.

The paragraph describes exemptions to the code and then it says except forest land of long term commercial significance. Is this excepting an exception which means it is okay? This is confusing. Commissioner Prior suggested writing somewhere else in the code that this code applies to forest lands of long term commercial significance. This is not easily understood and he recommended re-writing it.

Chairman Davis stated that this meeting was not a public hearing but agreed to take statements from the public.

Chris Butler, Butler Surveying, stated he supported the new revision. He thought the change in the proposal to say this only affects forest lands of long term commercial significance does not do a lot because the zoning code already says that no lots shall be created smaller than 80 acres. It is repetitious but it is now in the subdivision code. What he found as value added was the resource lands and the potential to set aside for conservation areas. He therefore supports this revision.

Mr. Butler commented on Commissioner Brown's statement. Mr. Butler does not support the model from Jefferson County where there is a review fee and a review process. When Lewis County implemented the boundary line adjustment (BLA) the fee to submit and review was \$100 and it took about 24 hours. That same review process now costs \$795 and could take 3-4 weeks to review. He does not support the secondary procedure because there are not a lot of incidental subdivisions in the forest lands. He found two through his research. If a subdivision is going to get through under the radar this change to the ordinance does not affect anything because it is still not being reviewed prior to recording. Even at the 80-acre exemption it is still exempt from planning review. If a surveyor did subdivide he would be notified by the Assessor's office that he cannot do it. Mr. Butler does not support a planning review for this. More oversight may be value added but he does not think the necessity is there.

Regarding Commissioner Prior's comment on aliquot versus acreage, Mr. Butler stated aliquot lots are very valuable because most sections are not 640 acres. That is why it is important to have the west half of the west half. It might be 78 acres when you are done but it is still an aliquot 80. There are properties that are irregular such as properties that front a river or a lake. They cannot be aliquot – they cannot be fractioned. That is why it exists and Mr. Butler has no reservations about the way this amendment has been written. He reiterated that he supports the conservation lot addition.

Chairman Davis stated another large lot subdivision workshop will be scheduled late in May.

5. Public Hearing

A. Public Hearing on Flood Damage Prevention, LCC 15.35

Chairman Davis opened the public hearing on Flood Damage Prevention at 6:28 p.m. and recognized Mr. Chapman.

Fred Chapman, Building Official and Flood Plain Manager for Lewis County, stated Chapter 15.35 is a Flood Damage Prevention ordinance that has been in place since 1981. The proposed amendments are minor changes to the language that would help make it more consistent and follow the current regulatory language coming from FEMA and the NFIP program. Some recommendations were a result from the CAV (Community Assistance Visit) audit in 2011 and most recently from the ISO audit done this year. The most controversial proposal is the increase in the freeboard to 3 feet. Currently there is a one foot freeboard in place in all mapped A zones (100 year) with base flood elevations determined. In undetermined A zones that are un-numbered there is a 2' elevation requirement which would be increased to 3'.

Mr. Chapman asked for questions.

Commissioner Tausch asked if there are any Washington counties that invoke the 3' freeboard. Mr. Chapman did not know. He knows of jurisdictions with 1 and 2' freeboard. The reason he proposed 3' is because he has been elevating structures since 1999 and in 2007 a lot of the homes that were considered 1996 compliant had from 12 to 18" of water. The higher regulatory standard will reduce risk and that is his job as flood plain manager. People need to realize they are building in a hazardous area. Without dams on the Chehalis River this is the most efficient way to regulate structures to get them out of harm's way. He is not even sure if 3' is enough, but based on what happened in 2007, he is fairly confident that those homes would be safe.

Commissioner Mahoney referred to page 5 and the section that mentions market value. He asked if that is all new language. Mr. Chapman stated that it is new language that was added to clarify how that is determined.

Commissioner Mahoney stated the language is pretty explicit that the market value is on structure only. If a home is 50% damaged it cannot be rebuilt. Mr. Chapman stated it cannot be rebuilt if it is located in a regulatory floodway. In a flood plain it can be. Commissioner Mahoney asked if the market value language came from another source or if it is the County's language. Mr. Chapman stated it was a combination of CFR 44 and other examples were looked at to see what fit best.

Commissioner Mahoney was concerned that if all the other things were excluded to get the value lower in order to meet the 50% threshold that it may not be fair to the property owner. Mr. Chapman stated it was intended to identify many different options that still keep the county in compliance with regulatory statutes. When a valuation is done there are mechanisms that staff uses. There is a formula that the federal government created that gives a higher value than using County records. We try not to use assessed value. Having an independent appraiser is an option. The County is not trying to keep the value low.

Commissioner Mahoney stated he could see where the landscaping, paved driveways, etc., are a large part of the value of a home. He doesn't want to make it easier to tell someone that they cannot rebuild.

Mr. Chapman stated this does not address the land or any improvements. It only addresses the structure of a single family residential unit. Nothing else is taken into consideration.

Chairman Davis stated there are 5 different criteria for the valuation. He asked if it was weighted system – is there more value to any one of the criterion?

Mr. Chapman stated any of them can be used. The homeowner can challenge the county also.

Commissioner Lowery asked how much property is impacted in the County by raising the freeboard to 3' and what happens to people who bought over 1' but under 3' thinking they can build now. Are they grandfathered?

Mr. Chapman stated that until the ordinance is officially adopted they would be dealt with at the current level. When someone applies for a permit they are given all of the information that the county has at its disposal: history of floods in the area, extreme high water marks, etc. and we encourage everyone to build above that. Flood insurance rates are lower, also, if a home is elevated above the regulatory standard.

Mr. Chapman stated his department sends out approximately 3800 letters every year to properties that have structures in mapped flood hazard areas. There were 53 repetitive loss letters sent out to properties that fall within the area that has had multiple events that exceed damage at 25% of the value. Some of the repetitive loss properties have exceeded their value by 50%.

Commissioner Lowery asked how much land is impacted by going from 1 foot to 3 feet. Mr. Chapman stated he did not know the exact number of single family structures; however in both basins above dam and the main stem in the South Fork, the Tilton and the Newaukum, there are about 1200. Not all of those structures have been flooded but they are in a mapped flood zone.

Commissioner Prior asked if the 3' freeboard is above the 1996 flood. Mr. Chapman stated yes. Commissioner Prior asked the difference between the 1996 flood and the 2007 flood in the upper Cowlitz in the Packwood area. At his home the 2007 event was higher. He asked why the 2007 event was not used in the upper basin.

Mr. Chapman stated each event is different and the main rainfall in 2007 was in the Baw Faw and Willapa hills and mainly affected the Chehalis Basin. Commissioner Prior stated it was actually on ~~December~~ November 6, 2006 when the flooding was extreme in the Cowlitz. Mr. Chapman stated that flood was 2.6 feet above the 1996 flood. Commissioner Prior stated the 3' would still be above that flood. Mr. Chapman stated yes.

Chairman Davis asked for testimony from the public.

Mr. Chris Butler stated he does elevation certificates and letters of map amendment which are petitions to FEMA to correct what a landowner might find to be an erroneous decision. At first he struggled with

the 3' freeboard. He does not like legislating that someone has to go to 3'. After thinking about it and going through some files he discovered that a lot of the certificates done in the past were "turned on their heads" by the 1996 and 2007 flood events.

The FEMA maps are flood insurance rate maps that shade an area that is going to be in the flood plain based on the best available science studies at the time. The Lewis County maps were completed in 1980-81. FEMA now knows these maps are no longer correct and he encourages his clients to go higher than the regulatory 1'. Mr. Butler supports the rise to 3' because flooding is going to be an ongoing problem.

Scott Nolan, 560 Tauscher Rd., MDK Construction and vice president of Olympia Master Builders, thanked Ms. Napier and Mr. Chapman for attending the last Olympia Master Builders meeting. The members would like to support the 3' freeboard; they are not sure they want it to be regulated. They have more questions and would appreciate more information.

Mr. Chapman asked that his comments be incorporated as part of the testimony.

Chairman Davis recessed the public hearing at 7:00 p.m. to May 14 in Randle. Written testimony will be accepted until one week after the May 14 meeting at 2025 NE Kresky Ave, Chehalis 98532 until 4:00 p.m.

Mr. Nolan asked how the questions or comments received will be responded to. Mr. May stated any comments from the public will be reviewed by staff and staff will make a recommendation to the Planning Commission.

Commissioner Prior encouraged Mr. Nolan to submit written testimony.

Commissioner Guenther stated he would like to see any testimony also. Mr. May stated the testimony would also be reviewed by the Planning Commissioners and would be available to the public.

6. New Business

There was no new business.

7. Calendar

The next meeting will be a continuation of the public hearing on Flood Damage Prevention on May 14, 2013 at the White Pass High School in Randle.

8. Good of the Order

Mr. May stated staff is trying to enlarge public outreach. He has created a way to subscribe to Community Development announcements. He distributed handouts that explained how to sign up on the County website.

9. Adjourn

A motion was made and seconded to adjourn. The meeting adjourned at 7:05 p.m.